

HOUSE BILL No. 1818

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-44-3-3.

Synopsis: Defense to resisting law enforcement. Creates a defense to resisting law enforcement for a motorist who refuses to stop after being ordered to do so because the motorist was unable to determine whether the law enforcement officer was actually a law enforcement officer. Provides that the defense applies only if: (1) the motorist was unable to determine whether the officer was actually a law enforcement officer because visibility was reduced or because the officer was in an unmarked vehicle; (2) the motorist's refusal to stop lasted only long enough to determine whether the officer was actually a law enforcement officer or to drive to a populated location; and (3) after being ordered to stop, the motorist did not speed or operate the motor vehicle in a manner that endangered or could have endangered any person.

Effective: July 1, 2005.

Stutzman, Duncan, Welch

January 25, 2005, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1818

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-44-3-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person who
3 knowingly or intentionally:

4 (1) forcibly resists, obstructs, or interferes with a law enforcement
5 officer or a person assisting the officer while the officer is
6 lawfully engaged in the execution of ~~his~~ **the officer's official**
7 duties; ~~as an officer~~;

8 (2) forcibly resists, obstructs, or interferes with the authorized
9 service or execution of a civil or criminal process or order of a
10 court; or

11 (3) flees from a law enforcement officer after the officer has, by
12 visible or audible means, identified himself **or herself** and
13 ordered the person to stop;
14 commits resisting law enforcement, a Class A misdemeanor, except as
15 provided in subsection (b).

16 (b) The offense under subsection (a) is a:

17 (1) Class D felony if:

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- 1 (A) the offense is described in subsection (a)(3) and the person
- 2 uses a vehicle to commit the offense; or
- 3 (B) while committing any offense described in subsection (a),
- 4 the person draws or uses a deadly weapon, inflicts bodily
- 5 injury on another person, or operates a vehicle in a manner
- 6 that creates a substantial risk of bodily injury to another
- 7 person;
- 8 (2) Class C felony if, while committing any offense described in
- 9 subsection (a), the person operates a vehicle in a manner that
- 10 causes serious bodily injury to another person; and
- 11 (3) Class B felony if, while committing any offense described in
- 12 subsection (a), the person operates a vehicle in a manner that
- 13 causes the death of another person.
- 14 (c) For purposes of this section, a law enforcement officer includes
- 15 an alcoholic beverage enforcement officer and a conservation officer
- 16 of the department of natural resources.
- 17 **(d) It is a defense to an offense under subsection (a)(3) that,**
- 18 **after the law enforcement officer identified himself or herself and**
- 19 **ordered the person to stop, the person did not stop solely because**
- 20 **the person was unable to determine whether the law enforcement**
- 21 **officer was actually a law enforcement officer, if:**
- 22 **(1) the person was operating a motor vehicle;**
- 23 **(2) the person was unable to determine whether the law**
- 24 **enforcement officer was actually a law enforcement officer**
- 25 **because:**
- 26 **(A) darkness, fog, precipitation, or another environmental**
- 27 **factor reduced visibility; or**
- 28 **(B) the law enforcement officer was not operating a motor**
- 29 **vehicle that was clearly marked as a police vehicle;**
- 30 **(3) the person's refusal to stop did not last longer than**
- 31 **reasonably necessary to:**
- 32 **(A) determine whether the law enforcement officer was**
- 33 **actually a law enforcement officer; or**
- 34 **(B) stop the person's motor vehicle in a populated area;**
- 35 **and**
- 36 **(4) after being ordered to stop, the person did not operate the**
- 37 **person's motor vehicle in:**
- 38 **(A) excess of the maximum lawful speed; or**
- 39 **(B) a manner that endangered or could have endangered**
- 40 **any person.**

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